

Department of Energy

§ 709.2

Subpart C—Safeguarding Privacy and Employee Rights

- 709.21 Requirements for notification of a polygraph examination.
- 709.22 Right to counsel or other representation.
- 709.23 Obtaining consent to a polygraph examination.
- 709.24 Other information provided to the covered person prior to a polygraph examination.
- 709.25 Limits on use of polygraph examination results that reflect “Significant Response” or “No Opinion”.
- 709.26 Protection of confidentiality of CI evaluation records to include polygraph examination records and other pertinent documentation.

Subpart D—Polygraph Examination and Examiner Standards

- 709.31 DOE standards for polygraph examiners and polygraph examinations.
- 709.32 Training requirements for polygraph examiners.

AUTHORITY: 42 U.S.C. 2011, *et seq.*, 7101, *et seq.*, 7144b, *et seq.*, 7383h–1; 50 U.S.C. 2401, *et seq.*

SOURCE: 71 FR 57392, Sept. 29, 2006, unless otherwise noted.

Subpart A—General Provisions

§ 709.1 Purpose.

This part:

- (a) Describes the categories of individuals who are subject for counterintelligence evaluation processing;
- (b) Provides guidelines for the counterintelligence evaluation process, including the use of counterintelligence-scope polygraph examinations, and for the use of event-specific polygraph examinations; and
- (c) Provides guidelines for protecting the rights of individual DOE employees and DOE contractor employees subject to this part.

§ 709.2 Definitions.

For purposes of this part:

Access authorization means an administrative determination under the Atomic Energy Act of 1954, Executive Order 12968, or 10 CFR part 710 that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.

Adverse personnel action means:

(1) With regard to a DOE employee, the removal, suspension for more than 14 days, reduction in grade or pay, or a furlough of 30 days or less as described in 5 U.S.C. Chapter 75; or

(2) With regard to a contractor employee, the discharge, discipline, or denial of employment or promotion, or any other discrimination in regard to hire or tenure of employment or any term or condition of employment.

Contractor means any industrial, educational, commercial, or other entity, assistance recipient, or licensee, including an individual who has executed an agreement with DOE for the purpose of performing under a contract, license, or other agreement, and including any subcontractors of any tier.

Counterintelligence or CI means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

Counterintelligence evaluation or CI evaluation means the process, possibly including a counterintelligence scope polygraph examination, used to make recommendations as to whether certain employees should have access to information or materials protected by this part.

Counterintelligence program office means the Office of Counterintelligence in the Office of Intelligence and Counterintelligence (and any successor office to which that office's duties and authorities may be reassigned).

Counterintelligence-scope or CI-scope polygraph examination means a polygraph examination using questions reasonably calculated to obtain counterintelligence information, including questions relating to espionage, sabotage, terrorism, unauthorized disclosure of classified information, deliberate damage to or malicious misuse of a United States Government information or defense system, and unauthorized contact with foreign nationals.